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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,436	01/23/2004	Kris A. Weger	ZSI 0106 PUS	6828

22045 7590 11/03/2005

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT PAPER NUMBER

3679

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,436

Applicant(s)

WEGER ET AL.

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4-12, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/22/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 4-12, 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 29, 2005.

Claim Objections

2. Claim 13 is objected to because of the following informalities:

Claim 13 (line 4) recites "the clamp comprising". It should recite --the clamp assembly comprising--.

Claim 13 (line 7) recites "grip bumps and positioned". It should recite --grip bumps shaped and positioned--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kindorf et al. (US 3,486,726).

As to claim 1, Kindorf et al. disclose an adjustable clamp assembly capable of securing cylindrical members **14** having variously sized outer diameters to an elongate U-shaped support channel **16**, the clamp assembly comprising:

a unitary first clamp half **12** having a first end slidably engageable to the support channel, a second end spaced apart from the channel, and an adaptable inner surface capable of mating engagement with cylindrical members having variously sized outer diameters;

a unitary second clamp half **12** having a corresponding first end slidably engaged to the support channel, a corresponding second end, and an inner surface opposing the first clamp half inner surface, an attachment region **17** formed at the second end of each of the first and second clamp halves for coupling the first and second clamp halves together; and

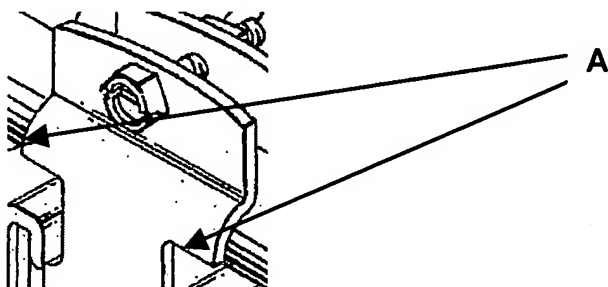
a fastener **10,11** cooperating with the first and second clamp half attachment regions to effectuate fastening engagement between the first and second clamp halves;

wherein a single cylindrical member is interposed between the first and second clamp half adaptable inner surfaces and each clamp half is slidably movable along a channel axis toward one another until the opposing adaptable inner surfaces matingly engage the single cylindrical member to sufficiently secure the single cylindrical member to the U-shaped channel (Figure 1).

Kindorf et al. fail to disclose an assembly comprising first and second clamp halves formed from plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Kindorf et al. to have first and second clamp halves formed of plastic as such practice is a design consideration within the skill of the art.

As to claim 2, Kindorf et al. disclose an adjustable clamp assembly wherein the adaptable inner surface of each clamp half **12** comprises a plurality of grip bumps **A** (opposed axially extending portions **A** of curved gripping portion **13**; Figure 1 reprinted with annotations below) shaped and positioned to provide size adjustment capability for cylindrical members **14** having variously sized standard outer diameters (Figure 1).



As to claim 3, Kindorf et al. disclose an adjustable clamp assembly wherein the cylindrical members **14** having variously sized standard outer diameters make direct contact with at least the support channel **16**, one of the plurality of grip bumps **A** of the first clamp half **12**, and one of the plurality of grip bumps **A** of the second clamp half **12** (Figure 1).

As to claim 13, Kindorf et al. disclose an adjustable clamp assembly capable of securing cylindrical members **14** having variously sized standard outer diameters to an

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elongate U-shaped support channel **16** without the need for a cushion insert disposed between the clamp and the cylindrical member, the clamp assembly comprising:

a unitary first clamp half **12** having a first end slidably engageable with a support channel along a channel axis, a second end spaced apart from the channel, and an adaptable inner surface having a plurality of grip bumps **A** (opposed axially extending portions **A** of curved gripping portion **13**) shaped and positioned for mating engagement with cylindrical members having variously sized standard outer diameters;

a unitary second clamp half **12** having a corresponding first end slidably engageable with the support channel along the channel axis, a corresponding second end, and an adaptable inner surface opposing the first clamp half inner surface having a plurality of grip bumps **A** (opposed axially extending portions **A** of curved gripping portion **13**) shaped and positioned for mating engagement with cylindrical members having variously sized standard outer diameters, each clamp half having an attachment region **17** formed at the second end for coupling the first and second clamp halves together; and

a fastener **10,11** cooperating with the attachment regions to effectuate fastening engagement between the first clamp half and the second clamp half;

wherein a single cylindrical members can be interposed between the first and second clamp half adaptable inner surfaces such that each clamp half is slidably movable toward one another along the channel axis until one of the plurality of grip bumps of the first and second clamp halves directly engage the single cylindrical

member sufficiently securing the single cylindrical member to the support channel (Figure 1).

Kindorf et al. fail to disclose an assembly comprising first and second clamp halves formed from plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Kindorf et al. to have first and second clamp halves formed of plastic as such practice is a design consideration within the skill of the art.

As to claim 14, Kindorf et al. disclose an adjustable clamp assembly wherein the cylindrical members **14** having variously sized standard outer diameters are secured to the support channel **16** by at least three contact points, the at least three contact points comprising one of the plurality of grip bumps **A** of the first clamp half **12**, one of the plurality of grip bumps **A** of the second clamp half **12**, and the support channel **16** (Figure 1).

As to claim 15, Kindorf et al. disclose an adjustable clamp assembly wherein the first end of each clamp half **12** comprise a neck and shoulders **25** for cooperating with the support channel **16** to effectuate sliding engagement (Figure 1).

As to claim 16, Kindorf et al. disclose an adjustable clamp assembly wherein the attachment region **17** of each clamp half **12** comprises an aperture for partially inserting

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the fastener **10** therethrough to couple the first clamp half to the second clamp half (Figure 1).

As to claim 17, Kindorf et al. disclose an adjustable clamp assembly wherein the fastener **10,11** comprises a nut and bolt assembly (Figure 1).

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kindorf et al. in view of Dunklee (US 3,419,942).

As to claim 18, Kindorf et al. fail to disclose an assembly wherein the first clamp half aperture includes a boss for housing a nut, the boss having a detent formed therein for snap fit retention of the nut, the second clamp half aperture having a finger for retaining a bolt.

Dunklee teaches a clamp assembly wherein a first clamp half **216** aperture includes a boss for housing a nut (not labeled), the boss having a detent (boss wall) formed therein for snap fit (press fit) retention of the nut, a second clamp half **218** aperture having a finger (boss wall) for retaining a bolt **26**; the boss in the first clamp half and the finger in the second clamp half providing for a more secure engagement between the first clamp half and the second clamp half. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Kindorf et al. to have a first clamp half aperture having a boss, and a second clamp half aperture having a finger as taught by Dunklee in order to provide for a more secure engagement between the first clamp half and the second clamp half.

Response to Arguments

6. Applicant's arguments filed August 18, 2005 have been fully considered but they are not persuasive.

As to claims 1,2 and 13, Attorney argues that:

Kindorf does not disclose an *adjustable* clamp assembly *for securing cylindrical members having variously sized standard outer diameters* to an elongate U-shaped support channel, comprising first and second clamp halves each having an *adaptable inner surface having a plurality of grip bumps* shaped and positioned for mating engagement with cylindrical members having variously sized standard outer diameters.

Examiner disagrees. As to claims 1,2 and 13, Kindorf discloses an adjustable (malleable and bendable material) clamp assembly capable of securing cylindrical members **14** having variously sized standard outer diameters to an elongate U-shaped support channel **16**, comprising first and second clamp halves **12** each having an adaptable (malleable and bendable material) inner surface having a plurality of grip bumps **A** (opposed axially extending portions **A** of curved gripping portion **13**) shaped and positioned for mating engagement with cylindrical members having variously sized standard outer diameters (Figure 1).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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10/27/05



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